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Remarks:

*Regarding the objections to claims 1 and 11; regarding the rejection of claims 1 and 11 under 35 USC 112:*

Claims 1 and 11 have been amended to address and overcome the Examiner's objections/rejection. These amendments are also believed to be effective with regard to the dependent claims 2 – 10 and 12 – 20.

*Regarding the rejection of claims 1, 2, 4-7, 10-12, 14-17 and 20 under 35 USC 103(a) in view of US 4758377 to Iding (hereinafter "Iding") in view of WO 96/35771 (hereinafter "WO 771"):*

The applicant traverses the Examiner's rejection of the claims in view of the combined Iding and WO 771 references.

With respect to Iding, those compositions are directed to viscous, phase stable liquid scouring cleaners which comprise 1-10% of a surfactant mixture of paraffin sulfonate (NaPS) and alkyl benzene sulfonate (LAS), 0.5-10% of a terpene or a terpene derivative, or mixtures thereof; 0.5-3% of a polar solvent (benzyl alcohol); 0.4-1% of a high molecular weight acrylic polymeric thickener; and from 1-50% of a water-insoluble abrasive of the type described hereinafter; and 0.03-0.5% of selected viscosity enhancing compounds.

The compositions of WO 771 are directed to certain hard surface scouring cleaning compositions which comprise (a) 10 – 30%wt. of hard inorganic abrasive particles; (b) 0.5 – 2.5%wt. of a chlorine-containing bleach, (c) 0.5 – 3%wt. of a thickening system of a cross-linked polyacrylate resin having a molecular weight in the range of 1,000,000 and 10,000,000 and a synthetic smectite clay resembling natural clays of the hectorite class, the amount of said clay in the thickening system being from about 20% to about 80%; (d) 0.25 – 2%wt. of a bleach-stable surfactant system containing mainly anionic surfactants; (e) 0 – 3%wt. of an electrolyte selected from the group comprising sodium or potassium

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carbonates or silicates, and (f) sufficient sodium or potassium hydroxide to attain a pH in the range of 11.5 – 13.5.

Pursuant to the M.P.E.P. Sec. 2143, in order to establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Third and finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaack*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). It is the applicant's view that these basic criteria has not been met.

As is evident from the applicant's amendments to claims 1 and 11, the claims now require that a particular degree of antimicrobial efficacy need be provided by the compositions as defined by the current claims. Such cannot be considered obvious over the prior art Iding or WO 771 reference considered jointly or severally. Neither of these documents teach or suggest in even the remotest fashion that they compositions would provide at least the same degree of antimicrobial efficacy as is now claimed. Both of these references are wholly silent as to such an effect and as such, antimicrobial effectiveness cannot be deemed to be obvious as these references provide no basis for any expectation of antimicrobial efficacy and as such cannot be held as suggesting such a property as is now claimed.

Accordingly, reconsideration of the propriety of the outstanding rejection over the combined Iding and WO 771 references, and its withdrawal is respectfully requested.

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*Regarding the rejection of claims 8, 9, 18 and 19 under 35 USC 103(a) in view of US 4758377 to Iding (hereinafter "Iding") in view of WO 96/35771 (hereinafter "WO 771") further in view of US 4414128 to Goffinet (hereinafter "Goffinet"):*

The applicant traverses the Examiner's rejection of the claims in view of the combined Iding, WO 771 and Goffinet references.

For the sake of brevity the applicant herein repeats and incorporates by reference the remarks entered above with respect to the combined Iding and WO 771 references as being equally applicable here.

With regard to Goffinet, that document provides compositions which may be characterized as aqueous liquid detergent composition characterized by necessarily comprising: (a) from about 1% to about 20% of a synthetic anionic, nonionic, amphoteric or zwitterionic surfactant or mixture thereof; (b) from about 0.5% to about 10% of a mono- or sesquiterpene or mixture thereof, the weight ratio of surfactant:terpene lying in the range of 5:1 to 1:3; and, (c) from about 0.5 to about 10% of a polar solvent having a solubility in water at 25°C. in the range from about 0.2% to about 10%.

However, apart from Goffinet's single statement which notes at col. 9 lines 63 – 65 that "A germicide such as o-phenyl phenate can also be added to the present compositions, providing excellent hard surface germicidal activity.", it is otherwise apparent that Goffinet makes no further suggestion that his compositions exhibit any antimicrobial efficacy whatsoever. Indeed, it is fair to state that a skilled artisan would readily conclude this to be true, except for compositions wherein o-phenyl phenate is necessarily included to provide some degree of antimicrobial efficacy, Goffinet's compositions would not be expected to provide any degree of antimicrobial efficacy. An examination of the applicant's specification notes that o-phenyl phenate is not discussed or mentioned, but that even in its absence the applicant's compositions as presently claimed provide a significant degree of antimicrobial efficacy. Thus it is not believed that any of Goffinet's compositions wherein o-phenyl phenate were absent would provide to a skilled artisan

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reviewing Goffinet's specification any expectation of antimicrobial efficacy. As such it is not seen how the Goffinet reference can be held as suggesting such a property as is now claimed.

As noted immediately above, Goffinet too fails to provide a requisite teaching of antimicrobial efficacy against *Salmonella choleraesuis* and *Psuedomonas aeruginosa* as is presently claimed. It is also fair to say that the additional consideration of Goffinet in conjunction with the prior art Iding or WO 771 references do not overcome the shortcomings of Iding and WO 771 references discussed previously. Therefore, reconsideration of the propriety of the outstanding rejection over the combined Iding, WO 771 and Goffinet references, and its withdrawal is deemed to be proper and is respectfully requested.

*Regarding the rejection of claims 1-7, 10-17 and 20 under 35 USC 102(b) as being anticipated by US 4767563 to De Buzzaccarini (hereinafter "De Buzzaccarini"):*

The applicant traverses the Examiner's rejection of the claims in view of the reference to De Buzzaccarini.

The De Buzzaccarini compositions may be characterized as being directed to liquid scouring cleansers which comprise at least 0.1% (preferably 0.5-10%) of a terpene or a terpene derivative, or mixtures thereof; at least 0.1% (preferably 0.5-10%) of benzyl alcohol; optionally, and preferably, conventional additives such as deterative surfactants, hydrotropes, detergency builders, water softeners, carrier liquids (especially water), perfumes, and the like, characterized in that the compositions comprise: from 1-50% (preferably 15 to 30%; most preferably 20 to 25%) of a water-insoluble abrasive.

Nonetheless, De Buzzaccarini is wholly silent as to any degree of antimicrobial efficacy against *Salmonella choleraesuis* and *Psuedomonas aeruginosa* as is presently claimed by the present applicant. A skilled artisan reviewing the De Buzzaccarini reference would find no teach or suggest in even the remotest fashion that the De Buzzaccarini

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compositions would provide at least the same degree of antimicrobial efficacy as is now claimed. As the De Buzzaccarini reference is wholly silent as to such an effect and as such, antimicrobial effectiveness cannot be deemed to be obvious as DBX provides no basis for any expectation of antimicrobial efficacy and as such cannot be held as suggesting such a property as is now claimed.

Accordingly reconsideration and withdrawal of the rejection under 35 USC 102(b) is requested.

*Regarding the rejection of claims 8, 9, 18 and 19 under 35 USC 103(a) as being anticipated by US 4767563 to De Buzzaccarini (hereinafter "De Buzzaccarini") further in view of US 4414128 to Goffinet (hereinafter "Goffinet"):*

The applicant traverses the Examiner's rejection of the claims in view of the reference to De Buzzaccarini in view of Goffinet.

For the sake of brevity, the applicant herein repeats and incorporates by reference the prior remarks made above with respect to the Goffinet and the De Buzzaccarini references, as being equally applicable here. As neither Goffinet nor De Buzzaccarini discuss any degree of antimicrobial efficacy against *Salmonella choleraesuis* and *Pseudomonas aeruginosa* as is presently claimed by the present applicant, there is nothing in these references which would teach or suggest to a skilled artisan that either of these reference provide such an effect or under what conditions such would be modified and/or combined in order to produce the types of compositions which the present applicant now claims.

Accordingly reconsideration of the outstanding grounds of rejection in view of the combined Goffinet and De Buzzaccarini references and withdrawal of the rejection is requested.

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As it is believed that the claims are in condition for allowance, as a next communication a *Notice of Allowability* is solicited. None of the prior art references cited by the Examiner demonstrate compositions as are now claimed, and are silent as to any such properties or how they may be attained.

Accordingly in view of the amendments to the claims presented herein, and in view of the foregoing remarks, reconsideration of the propriety of the outstanding grounds of rejection and withdrawal of the prior art references from further consideration are solicited. When the references cited by the examiner fail to establish a prima facie case of obviousness, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

Should the Examiner have any question concerning this response, or believe that telephonic communication would meaningfully advance the present application to allowability, the Examiner is invited to contact the undersigned at their convenience.

As this paper is being filed (per telefax) on Sunday, 14.May.2006 in the USPTO, it is believed to be timely as being filed by the next business day following the expiry of the timely response due date which occurred on a weekend date, Saturday 13.May.2006.. Accordingly it is believed that no petition for an extension of time, nor the fee required by such a petition is required.

#### Conditional Authorization for Fees

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, including but not limited to any fees for additional claims and any fees for any petition for an extension of time, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

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Respectfully Submitted;

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14 May 2006  
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